

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Genevieve Andre-Fontaine Confirmation No.: 9098
Appl No.: 10/533,193 Group Art Unit: 1654
Filed: 09/29/2005 Examiner: Jeffrey E. Russel
For: PEPTIDES FOR PREVENTING, DIAGNOSING AND TREATING ANIMAL
AND/OR HUMAN LEPTOSPIROSIS

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

This is in response to the Office Action dated October 16, 2007, in which the Examiner has required restriction between Group I, namely Claims 1-6 and 21-22 (in part), Group II, namely Claims 7-11, 23, 26 and 21-22 (in part), Group III, namely Claims 12-14, 16, 20, 27, 28 and 21-22 (in part), and Group IV, namely Claim 15.

Applicant hereby provisionally elects with traverse to prosecute the claims of Group I (Claims 1-6 and 21-22) and expressly reserves the right to file divisional applications or take such other appropriate measures deemed necessary to protect the inventions in the remaining claims.

Reconsideration by the Examiner and withdrawal of the restriction requirement are respectfully solicited.

The invention listed in Groups I-IV relate to a single general inventive concept because they are linked by a special technical feature. The peptides of claims 1-6 are encoded by the nucleic acid of claim 12, by the vector recombinant cell and organism of claims 13 to 15 respectively. Reciprocally these nucleic acid, vector, recombinant cell and transgenic organism possess as sole distinctive characteristic the capacity to code or express the peptides of claims 1-6.

The antibodies of claims 7 to 11 are the direct result of immunization by a peptide of claim 1-6. And there is no evidence that such antibodies could be obtained by immunization based on proteins of the prior art. On the contrary, the peptides of the invention provide

surprising new effects with regards to immunization: protection against several different pathogenic leptospires, whatever the serovar.

Consequently there is a common technical feature to all the claims.

The X references in the International Search Report only constitute a presumption that part of the invention is anticipated. However, in the instant case, the special technical feature peptide SEQ ID NO:1 of claims 1-6 is not anticipated.

Prior art WO 01/59123 discloses a protein named PPL of 32 kDa, comprising a sequence also named SEQ ID NO:1, but distinct from the sequence of the invention. This protein comprises 272 amino acids. This document does not disclose a protective effect against pathogenic leptospires, whatever the serovar of PPL fragment.

Prior art WO 99/42478 discloses a membrane protein LipL32 which one can find in some pathogenic leptospire. This protein comprises 272 amino acids. It can be used to induce an immune response against some pathogenic leptospire serogroups.

WO 96/36355 discloses two membrane proteins of pathogenic leptospire LipL1 and LipL2 of respectively 35 kDa and 41 kDa. These proteins are used to produce an immune response against some leptospires.

Consequently, none of the prior art documents classified "X" discloses the common technical feature of the invention: the peptides of sequence SEQ ID NO:1 (and its homologs, analogs, derivatives), and their capacity to induce protection against several serovars.

The Applicant therefore requests that all the claims be examined because they are based on a new, original common technical feature.

Should the Examiner have further questions or comments with respect to examination of this case, it is respectfully requested that the Examiner telephone the undersigned so that further examination of this application can be expedited.

Appl No.: 10/533,193
Amdt. dated 11/13/2007
Reply to Restriction Requirement of October 16, 2007

It is not believed that extensions of time or fees for net addition of claims are required, beyond those, which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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